

**(2011) 11 AP CK 0112**

**In the Andhra Pradesh High Court**

**Case No : Writ Petition No. 12727 of 2010**

BHEL Middle Residents Welfare Society (Human Rights and Consumer Protection Cell) BHEL MIG 982, Hyderabad and Vemana Co-Op Andhra Pradesh Vemana(Reddy) Colony Serilingampally Municipality, Chandanagar, Ranga Reddy District

**APPELLANT**

**Vs**

The State of Andhra Pradesh and Others

**RESPONDENT**

**Date of Decision : 11-11-2011**

**Acts Referred:**

**Citation : (2011) 11 AP CK 0112**

**Hon'ble Judges : Ghulam MohammedActnig, C.J;Nooty Ramamohana Rao, J**

**Bench : Division Bench**

**Advocate : C. Narender, for the Appellant; M. Dhanamjay Reddy (SC for Huda), for Respondent No. 2, Sri. V. Sudhakar Reddy (SC for HMWSSB), for Respondent No. 3, Smt. Y. Padmavathi (SC for GHMC) and Sri. Y.S. Murthy (SC for Pollution Control Board), for the Respondent**

## **Judgement**

Hon"ble Sri Ghulam Mohammed, Actnig Chief Justice

1. This Writ Petition has been instituted challenging the orders passed on 02.12.2009, by the District Collector, Ranga Reddy District, in handing over the site situated in Survey No. 253 of Chandanagar Village, Serilingampally Mandal, Ranga Reddy District, for the purpose of construction of 30 MLD Sewerage Treatment Plant (STP) in Lingamkunta Cheruvu.

2. The case of the petitioners is that land in Survey No. 253 of Chandanagar Village and land in Survey No. 91 of Gachibowli Village fall under Full Tank Level of the water body known as Lingamkunta Cheruvu. Instead of protecting and preserving the said water body, and instead of preventing constructions to come up within the Full Tank Level of the said water body, respondent No. 5-District Collector has allowed now a Sewerage Treatment Plant to be established in the said Full Tank Level of the water body and hence, the fifth respondent's action is

illegal and unjust.

3. It is contended by the learned counsel for the petitioners that the action of the respondents is contrary to the dictum laid down by the Supreme Court in *Intellectuals Forum, Tirupathi Vs. State of A.P. and Others*,

4. On the contra, the Member Environment of Hyderabad Metropolitan Development Authority has filed a detailed counter-affidavit in the matter. It is pointed out that pursuant to the orders passed by the State Government in their G.O.Ms. No. 157, Municipal Administration and Urban Development (I) Department, dated 06.04.2010, constituting a Lake Protection Committee, 18 lakes have been inspected out of 21 lakes identified for protection. The officials of the Irrigation and Revenue departments were also made part of the inspecting team. It is also pointed out that the orders passed by the State Government contained in their G.O.Ms.No.111, dated 08.03.1996, are applicable only to the catchment areas of Osman Sagar and Himayath Sagar lakes and hence, the directives contained therein are not applicable to Lingamkunta Cheruvu situated in Chandanagar Village. This apart, when we called for a report from the District Collector, Ranga Reddy District, he filed a detailed report before us pointing out that Lingamkunta tank was previously maintained by the Panchayat Raj Department and consequent to the formation of Hyderabad Lakes and Water Bodies Management Circle, this tank has been handed over to the Irrigation and Command Area Development department in the year 2004. Survey in respect of Full Tank Level of Lingamkunta tank was carried out and it was noticed that the Full Tank Level is spread over around Ac.20-00 cents of land and the surrounding area including a major chunk of the tank bed area has already been developed into residential colonies some time during the year 1995 and a well developed temple complex, residential buildings, some concrete roads are existing in this portion of the tank bed area. It was also noticed that Lingamkunta tank has only one sluice located in the middle of the bund and the surplus weir is located on the left side of the bund. The ayacut, which was in existence under the tank, has since vanished due to rapid urbanization. As of now there is no inflow of water into the water body for the past over several years. However, with a view to protect the water body in the long run, it has been proposed to strengthen the tank bund by removing the temporary structures which have sprung up on the tank bund. The District Collector has further indicated that the Executive Engineer has been requested to take up necessary action in this regard. It is also proposed to restore the surplus weir to its normal position. Approximately, Ac.7-00 cents of tank bed area has already been covered by super structures raised thereon, which are in existence for over 15 years. Therefore, the District Collector has proposed to the Hyderabad Metro Water Supply and Sewerage Board to undertake construction of 30 MLD Sewerage Treatment Plant at Lingamkunta tank to treat the sewage water to river disposable standards and let out the treated water into the water body so as to prevent pollution of water in the tank. The District Collector was informed by the Managing Director of Hyderabad Metro Water Supply and Sewerage Board that this measure would

improve the quality of water flowing into the tank and that the sites for location of the Sewerage Treatment Plants were selected on careful technical study and there is no other suitable land available in the nearest vicinity for establishing the Sewerage Treatment Plant.

5. We have also called for a report from the Hyderabad Metro Water Supply and Sewerage Board. The General Manager (Engineer) of the said Board filed a brief report about the efficiency of the Sewerage Treatment Plant and the benefits of treatment of polluted water of Lingamkunta tank. It was pointed out by the General Manager that after construction of the Sewerage Treatment Plant, the polluted water will be diverted to the Sewerage Treatment Plant, treated to the river disposable standards and then, let into the Lingamkunta Cheruvu to eliminate polluted water there. This measure, according to the General Manager, would help in maintaining good environment and hydrology of the lake. The General Manager has further pointed out that so far 11 Sewerage Treatment Plants have been got constructed by the Board at various residential localities of the city nearby various water bodies and all these Sewerage Treatment Plants are functioning really well without emanating any foul smell, as suspected by the petitioners, and on the other hand, they are preventing pollution of the water body, air, ground water and environment as well. The list of 11 Sewerage Treatment Plants with their locations and their capacity have been furnished in a tabulated statement in the said report. The General Manager opined that the construction of Sewerage Treatment Plant near water bodies would help to avoid pollution inasmuch as most of the water bodies existing in and around the city are getting polluted with inflow of sewage water.

6. The Andhra Pradesh Pollution Control Board, Hyderabad, through its letter, dated 21.07.2010, filed its inspection report in connection with the construction of 30 MLD Sewerage Treatment Plant at Lingamkunta tank. The Pollution Control Board, with the assistance of GPS points, found that the proposed site of establishing the Sewerage Treatment Plant is falling outside the 10 kilometers radius of Osman Sagar lake. It is appropriate to record the radial distances from Himayat Sagar and Osman Sagar lakes, in this regard, as were furnished by the Pollution Control Board, which are as under:-

Sl. No.

Location of the GPS Point

Latitude & Longitude

Distance

1.

Proposed STP site

N17 30" 20.6" E 78 18" 55.9"

Osman Sagar Lake is 11.633 km

2.

Near temple

N 17 30" 18.8" E 78 18" 58.0"

Osman Sagar Lake is 11.589 km

7. It is, therefore, clear to us that the proposed Sewerage Treatment Plant near Lingamkunta tank is more than 10 kms away from the radial distance of Osman Sagar lake. It is also further clear to us that by way of construction of a Sewerage Treatment Plant near Lingamkunta water body, it will only help in improvement of the water of the latter from not getting polluted any further.

8. On the other hand, the treated water will be let into this water body. In fact, such a measure would help in restoring the water body, at least partially. Such a measure of conservation and protection will go a long way in not only restoring the environment but also improving qualitatively the same. Therefore, in our considered opinion, the following directions to the respondents will meet with the ends of justice in this case: -

(1) The Hyderabad Metro Water Supply and Sewerage Board-the third respondent is directed to comply with the necessary requirements and secure the Consent for Establishment (CFE) from the Andhra Pradesh Pollution Control Board for establishing the Sewerage Treatment Plant near Lingamkunta tank;

(2) Ensure that only treated water is let into the said water body at all times by maintaining records about the quality of treated water let in;

(3) Take all measures to preserve and protect the Lingamkunta tank and its tank bed area without any further encroachments or constructions being carried thereon;

(4) No water or drainage connection shall be provided to any such construction that might come up in the tank bed area of Lingamkunta tank henceforth;

(5) The District Collector, Ranga Reddy District, is directed to take all such necessary steps for removing the temporary and unauthorized structures/constructions which have been made and brought in the tank bund and bed areas of Lingamkunta tank and complete this task within a maximum period of three months from the date of receipt of a copy of this order; A report of removed encroachment be filed into this Court;

(6) The District Collector, Ranga Reddy District, is also directed to ensure that after construction of the Sewerage Treatment Plant, appropriate beautification measures are undertaken, as a restoration measure of the water body, for the purpose of convenient usage of the general public. It would be open to him to assign the task of development or maintenance of Lingamkunta water body in favour of any responsible company/Corporation.

(7) Further, ensure that no more building permissions are accorded by any of the

Urban Development Authorities or Municipal or Local bodies, to come up in the lake bed area of Lingamkunta.

9. With these directions, the Writ Petition stands disposed of. No costs.